

REMARKS

The present amendment is submitted in response to the office action dated December 17, 2003. In the office action, the Examiner rejected claims 31 and 38-46 under 35 U.S.C. §102(b) as being anticipated by Huizinga. In addition, claims 32-37 and 49-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Huizinga in view of Schlaeppi. Further, claims 47 and 48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Huizinga in view of Bailey.

With respect to the rejection of claim 31 under 35 U.S.C. §102(b) as being anticipated by Huizinga, this rejection is respectfully traversed in view of the claims as amended and for the reasons that follow. More specifically, independent claim 31 has been amended to define that the first laser-scored pattern forms a line of weakness running continuously in the machine direction of the flexible film. The features of independent claim 31, including the specific feature noted herein, are nowhere taught or disclosed in Huizinga or any other prior art.

Specifically, Huizinga merely discloses discrete, independent and separate laser-scored segments or sections. More specifically, Huizinga illustrates and discloses score lines 21 that are not continuous in the machine direction of the flexible film, but are segmented. For example, Huizinga teaches, “Score lines 21 in this case do not continue as far as the turned down rim of the packaging material but terminate in the “full” material near the point P.” Col. 5, lines 3-6. None of the laser scored segments run continuously in the machine direction of the flexible film as is described in independent claim 31. The invention describes a continuous score line from a laser beam that never has to be removed from the flexible film or turned off. The flexible film can, therefore, form a plurality of packages having score lines running continuously from edge to edge across the faces of the packages.

Under 35 U.S.C. §102, anticipation requires that a single prior art reference must disclose each and every element of Applicants' claimed invention. *Akzo v. U.S. International Trade*

Commission, 808 F.2d 1471, 1479 (Fed. Cir. 1986). Since Huizinga fails to disclose each of the elements defined in amended claim 31, the rejection thereto has been overcome and should be withdrawn.

Claims 32-50 and 70 depend from independent claim 31. These claims are further believed allowable over the references of record for the same reasons set forth with respect to their parent claims since each sets forth additional elements of Applicants' novel flexible thermoplastic polymeric film.

CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully submit that all of the claims in the application are in allowable form and that the application is in condition for allowance. If, however, outstanding issues remain, Applicants urge the Examiner to telephone Applicants' attorney so that the same may be resolved and the application expedited to issue. Applicants respectfully request the Examiner to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

Date: April 19, 2004

By:



Stephen T. Scherrer
Registration No. 45,080
McDERMOTT, WILL & EMERY
227 West Monroe STREET
Chicago, IL 60606-9815
312-372-2000

CHI99 4259661-1.024180.0907